

13cv2734
SRN/TNL**UNITED STATES DISTRICT COURT**

Harlan Keith Gale
Plaintiff

vs.

Cass County Ninth Judicial District Court,
and Assistant Prosecutors Barbara J. Harrington
and Jeanine Brandt. Leech Lake Department of
Public Safety, and Investigative Officer Renee
Benson, et al.,
Defendants

**MINNESOTA DISTRICT COURT**

Case Number.
Honorable.

**Notice of U.S.C. 42. § 1983 Filing,
Civil Rights Violation, and Notice
of Additions to Complaint as they
were not provided at time of filing**

INTRODUCTION

This is a Civil Rights Action filed by Harlan Gale, a county prisoner, for damages and injunctive and punitive relief under 42 U.S.C. § 1983, claiming wrongful arrest, unlawful detainment, malicious prosecution. Plaintiff also cites violation of the 8th and 14th amendments in negligence of the Constitution of the United States.

JURISDICTION

The Court has jurisdiction over the Plaintiff's claims of violation of Federal Constitutional rights under 42 U.S.C. §§1331 (1), and 1343. The Court has supplemental Jurisdiction over the plaintiff's State Law Tort claims under 28 U.S.C. § 1367.

PARTIES

- 1). The Plaintiff Harlan Keith Gale was at home, not in custody or in violation of any State or Federal Law, or county ordinance at the time of his arrest, during the events described and alleged in the complaint.
- 2). Defendant Renee Benson was and is at all relevant times, The Leech Lake Department of Public Safety Investigative Officer, and is being sued in her professional capacity.
- 3). Barb Harrington was and is at all relevant times, The Cass County Assistant Prosecutor, and is being sued in her professional capacity.



4). Jeanine Brandt was and is at all relevant times in the complaint, A Cass County Prosecutor, (Title and Rank Unknown), and is being sued in her professional capacity.

5). All the Defendants have acted under color of State Law, and continue to act under Color of State Law at all times relevant in the complaint.

FACTS

6). At approximately seven twenty p.m. September First, 2013, Leech Lake DPS affected a search and seizure order signed by Judge John Melbye, on allegations that a crime had occurred at the Plaintiff's residence some time that morning.

7). Based on that warrant and alleged crime of C.S.C. third degree, Plaintiff was taken into custody and booked pending formal charging.

8). Defendant Brandt drafted the original complaint with un-substantiated information which was never investigated for verification purposes, resulting in an in-accurate filing of the complaint.

9). Plaintiff repeatedly asked for explanation for the reasoning of his arrest. Plaintiff did not receive formal charging until September the 4th, 2013, in front of Judge Danforth, who at Defendant Brandt's urging imposed a 100,000 dollar bail.

10). Plaintiff requests public defense appointment, and asks the court to take notice that a speedy trial request be noted on record, Danforth agrees it is made so.

11). Public Defense appointed September 6th, 2013 Second Appearance set for the 8th, 2013

12). Second appearance Judge David Harrington recuses himself at Brandt's request, because the judge knows the defendant and knows his criminal history does not include sex based offenses.

13). Female Judge Jana Austed now appointed.

14). Plaintiff appears in front of Austed on the 16th of September 2013, who promptly orders plaintiff held solely on his criminal history and an alleged comment he made, without substantiating the comment on court record.

15). Further, on that date, the Court would not hear Plaintiff's claim that probable cause did not exist to legally detain plaintiff, nor charge him. Evidence existed at that time and still does, indicating that a rape kit result completed at Cass Lake HIS, did not produce one shred of evidence indicating that a crime had occurred. (See BCA Hospital Victim Report).

WRONGFUL PROSECUTION

16). Plaintiff asserts, his constitutional rights were violated when he was arrested and detained by Cass County Jail, and Prosecution, through the Leech Lake Department of Public Safety Police Officers, who had no criminal jurisdiction in the matter.

17). Plaintiff asserts, his arrest, Prosecutors Harrington and Brandt knew did not have basis of probable cause to exist, proceeded anyway based on personal dis-like for plaintiff, not professional obligatory prosecutorial duty.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18). The plaintiff has exhausted all remedies as evidenced by the Declined Rulings at contested omnibus hearing held on the 26th of Septmeber, 2013, the court further calendered pretrial and evidentiary hearing.

CLAIMS FOR RELIEF

The actions of Defendants Benson et al., in affecting arrest of plaintiff, without need or just cause, was done intentionally and constitutes violation of the 8th amendment by subjecting him

to arrest of his person, deprivation of liberty and freedom, and inflicts cruel and un-usual punishment, mental anguish and suffering.

The failure of State Prosecutors Defendants Harrington and Brandt, to recognize lack of probable cause basis, for reasoning an arrest or detainment constitutes deliberate indifference on their part. And contributes to the above mentioned constitutional violations, as well as Prosecutorial Misconduct.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests the Court grant the following relief:

A. Issue a Declaratory Judgement Stating that,

1. The arrest and jailing of Harlan Gale does indeed violate plaintiffs rights under the 8th and 14th, amendments of the u.s. constitution, and does constitute wrongful arrest under State Law.
2. Defendants Harrington and Brandts prosecutorial misconduct does violate the plaintiffs substantive due process and constitutional rights under State and Federal Law.

B. Issue and Injunction ordering Leech Lake DPS Cease immediately from performing investigative criminal matters without proper Supervisory Authority.

1. Further order that listed dps defendants be suspended without pay until investigations and reports can be submitted verifying criminal negligence on their part, so that they may await formal charging until cleared.
2. If in custody Release Defendant Immediately.

C, Award Compensatory Damages in the following Amounts.

1. 3.5 million charged to Leech Lake Band of Ojibwe, and the Department of Public Safety, for Gross violations of wrongful investigatory procedures, failure to follow county authority

supervision in investigations, failure to establish probable cause to affect an arrest, and filing reports with numerous errors.

2. 3.5 Million charges to Cass County for Prosecutors Harrington and Brandt for,

a. Gross Prosecutorial Misconduct

b. Failure to Show just cause for detainment

c. Failure to File correct complaint and charges

d. Deliberate Indifference to Plaintiff based on criminal history.

E. Gross Violations of any and all Constitutional Violations

D. Award Punitive Damages as follows.

a. Prosecutor Harrington and Brandt be fired immediately for conduct unbecoming of State Prosecutors, and failure to follow MRCP, AND MRPC.

b. Leech Lake DPS officers all be suspended or fired until proper BIA training can be established or investigations be conducted.

E. Grant other such relief as the Court sees fit or appears the Plaintiff is entitled to.

Signed by Plaintiff, Harlan Hale Dated, 9-30-2013

Notary Signature, [Signature] Dated, 9-30-13

Seal

